

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PORT OF OLYMPIA,

Plaintiff,

v.

M/V THE DREAM f/k/a EVERGREEN
STATE and JONES GLOBAL
INVESTMENT LLC,

Defendants.

IN ADMIRALTY

Case No. C20-05789-JCC

ORDER APPOINTING MARINE
LENDERS SERVICES, LLC AS
SUBSTITUTE CUSTODIAN

Upon the Ex Parte Motion of Plaintiff, PORT OF OLYMPIA, for the appointment of a Substitute Custodian for the M/V THE DREAM in lieu of the United States Marshal in this case, and good cause appearing therefore, the Court finds that:

1. The M/V THE DREAM (IMO 8836132) has been or will shortly be arrested by the U.S. Marshal, where she lies at berth at the Port of Olympia, and shall be kept always at an appropriate berth or anchorage within the District;

2. That the fees charged by the substitute custodian and for moorage will be less than the cost of leaving the vessel in the custody of the Marshal;

3. The proposed substitute custodian has no interest in the outcome of the present action;

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1 4. The vessel will not be moved and no person except the substitute custodian
2 will be allowed to enter on the property except as necessary to transfer the property to the
3 facilities of the substitute custodian for safekeeping and except as necessary to adequately
4 safekeep and protect the property, and except as may be expressly ordered herein;

5 5. The substitute custodian has obtained legal liability insurance through Great
6 American (Policy No. CL1932503366) with policy limits of not less than \$2,000,000 which
7 is expected to be adequate to respond in damages for loss of or injury to the Vessel resulting
8 from their liability or for damages sustained by third parties due to any acts, faults or
9 negligence of the substitute custodian.

10 6. The parties agree to release the United States and the marshal from any and all
11 liability and responsibility arising out of the care and custody of the vessel, from the time the
12 marshal transfers possession of the property to the substitute custodian until the property is
13 released or sold, and agree to hold harmless and indemnify the United States and the marshal
14 from any and all claims whatsoever arising out of the substitute custodian's possession and
15 safekeeping;

16 7. The proposed substitute custodian accepts appointment as substitute custodian
17 and possession of the property and will safely keep the property for the duration of the
18 appointment as substitute custodian.

19 Accordingly, it is hereby:

20 ORDERED that the Motion is granted, and the United States Marshal shall transfer
21 custody of the M/V THE DREAM (IMO 8836132), immediately following her arrest at the
22 Port of Olympia to the custody of the substitute custodian, Marine Lender Services, LLC;
23 and it is further

24 ORDERED that upon transfer of the M/V THE DREAM to the substitute custodian,
25 the aforesaid substitute custodian shall be appointed to act as substitute custodian of the M/V
26 THE DREAM during *custodia legis* on behalf of this Court, in place and instead of the

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1 United States Marshal, until written notice of release has been given by the Plaintiff to the
2 United States Marshal or has been ordered by this Court; and it is further

3 ORDERED that upon transfer of the M/V THE DREAM to the substitute custodian
4 by the United States Marshal, the United States Marshal shall not be liable for any loss
5 occurring while she remains in the custody of the substitute custodian; and it is further

6 ORDERED that after the M/V THE DREAM is arrested, the substitute custodian
7 shall cause and be responsible to have the M/V THE DREAM remain at an appropriate berth
8 and/or anchorage within this District; and it is further

9 ORDERED that the substitute custodian may, upon notice to the office of the U.S.
10 Marshal, move the vessel by tug or other safe means to other adequate berths or moorage
11 facilities in this District; and it is further

12 ORDERED that during *custodia legis*, the substitute custodian will permit the vessel
13 to undergo normal cargo operations, both loading and discharge, shift berths within the
14 District, and/or undergo repairs, but always at the risk and expense of the vessel's interests,
15 and always remaining within the District; and it is further

16 ORDERED that the substitute custodian may permit boarding and inspection of the
17 vessel by marine surveyors, representatives of plaintiff, defendant and prospective purchasers
18 in order to determine the vessel's condition and value at a date and time convenient to the
19 substitute custodian; and it is further

20 ORDERED That subject to final approval by the Court, all fees, costs and expenses
21 incurred by Plaintiff or the substitute custodian pursuant to the terms of this Order shall be
22 deemed administrative expenses of the U.S. Marshal.

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1 Dated this 2nd day of September, 2020.

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6 THE HONORABLE JOHN C. COUGHENOUR
7 UNITED STATE DISTRICT COURT JUDGE
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10 **Presented by:**

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12

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